

A Comparison of the Two Produced Water Reuse/Discharge Rules

Overview: In May 2025, the Water Quality Control Commission adopted a rule that both prohibited the discharge of produced water, an oil and gas waste product, and set up pilot projects for moving the science forward on produced water characterization, treatment, and reuse. This rule was based on a proposal from NMED and was supported by weeks of expert testimony from NMED staff scientists and other experts.

Only weeks later, on June 23, an oil and gas industry group, WATR Alliance, filed a petition proposing a rule that would reverse the May rule adopted by the commission. WATR Alliance’s proposed rule would allow discharge of produced water to both surface and ground water, in some cases without any monitoring requirements.

In addition, NMED management is not authorizing its scientists to participate in the new rulemaking. These same experts presented technical evidence in support of the May discharge ban on produced water. In the commission’s 58-year history, there has never been a rulemaking on a rule that NMED will implement in which NMED staff did not participate as a party.

Table: Produced Water Rules Comparison Chart

What Each Rule Allows	Current Rule (NMED’s rule that was adopted in May)	Industry Proposed Rule (proposed in June)
Allows discharge of produced water to surface water?	No ¹	Yes ²
Allows discharge of produced water to groundwater?	No ³	Yes ⁴
Creates robust framework for pilot projects that encourage science based forward progress on produced water characterization, treatment, and water quality standard development for future reuse applications.	Yes ⁵	No

¹ Current Rule at 20.6.400.A(1-2) NMAC

² Proposed Industry Rule at 20.6.8.400 C NMAC

³ Current Rule at 20.6.400.A(3-4) NMAC

⁴ Proposed Industry Rule at 20.6.8.400 B and C NMAC

⁵ Current Rule at 20.6.8.400 B and C NMAC

What Each Rule Allows	Current Rule (NMED's rule that was adopted in May)	Industry Proposed Rule (proposed in June)
Requires the reporting to NMED of research results, including lab analyses of all water contaminants in the untreated produced water and treated produced water, to assist the department in developing standards and assist the Water Quality Control Commission in the promulgation of regulations for the use of treated produced water in a manner that prevents water pollution and protects human health and the environment.	Yes ⁶	No
Allows the discharge of produced water through ground applications without monitoring?	No	Yes ⁷
Sets up a separate industry specific regulatory structure for the discharge of produced water to surface water that bypasses SB 21 and the surface water discharge rules implementing SB 21 that are currently being drafted by NMED?	No	Yes ⁸
Proposed uses for reuse and discharge	Non-discharging pilot projects	pilot projects, industrial use, cement, geothermal, hydrogen, commercial use, land application, road construction, other construction ⁹ , and irrigation of non-food crops, discharge to ground or surface water, restoration or ecological use ¹⁰

⁶ Current Rule at 20.6.8.400.C(3)
⁷ Proposed Industry Rule at 20.6.8.400.B NMAC
⁸ Proposed Industry Rule at 20.6.8.400.C NMAC
⁹ Proposed Industry Rule at 20.6.8.400.B(1) NMAC
¹⁰ Proposed Industry Rule at 20.6.8.400.C(1) NMAC